

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

Genever Holdings LLC,

Case No. 20-12411-JLG

Debtor.  
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**DECLARATION OF SERENA BOARDMAN IN SUPPORT OF  
DEBTOR'S APPLICATION TO EMPLOY AND RETAIN  
SOTHEBY'S INTERNATIONAL REALTY  
AS ITS REAL ESTATE BROKER AND SALES AGENT**

Serena Boardman hereby declares under penalties of perjury, pursuant to 28 U.S.C. §1746, to the best of her knowledge, information and belief:

1. I am a Senior Global Real Estate Advisor and Associate Broker at Sotheby's International Realty ("Sotheby's"), and as such, I am fully familiar with the facts and circumstances set forth herein. I respectfully submit this Declaration in support of Sotheby's retention by Genever Holdings LLC (the "Debtor") to serve as the Debtor's real estate broker and agent for the sale of the subject 18<sup>th</sup> floor apartment and auxiliary units at the Sherry-Netherland Hotel, 781 Fifth Avenue, New York, NY (the "Residence").

**Retention Agreement**

2. The terms and conditions of Sotheby's proposed retention are set forth in the engagement agreement annexed hereto as Exhibit "A" (the "Retention Agreement"). The agreed upon commission proposed herein is three (3%) percent of the total purchase price for a direct sale involving no cooperating broker and four (4%) of the total purchase price, with 2% commission paid to Ms. Boardman and 2% commission paid to a cooperating broker if there is a cooperating broker. This commission formula is consistent with market standards.

3. Sotheby's is also prepared to advance funds to launch the marketing of the Residence, which will be pursued on a world-wide basis. Sotheby's understands that all commissions and reimbursement of expenses are subject to a successful sale, and Sotheby's will not be paid until there is a closing on the Residence, which is subject to approval by this Court.

4. We further understand that Melanie L. Cyganowski, as the duly appointed Sales Officer (the "Sales Officer"), acting on behalf of the Debtor, retains all final decision making authority regarding the terms of the sale and whether to proceed with a particular buyer.

### **Qualifications**

5. Sotheby's is well qualified to perform the services required under the Retention Agreement to sell the Residence. Among other things, Sotheby's is the industry leader in the sale of premier Manhattan residences. The firm's worldwide network, as well as the association with Sotheby's Auction House, provides sellers with access to a unique and qualified group of buyers. Quite simply, these purchasers expect Sotheby's listings to be the finest properties on the market and they are willing to pay premium prices to secure them. To that end, Sotheby's is prepared to commit to a very strong marketing and advertising campaign with the goal of achieving the strongest possible purchase price.

6. I started with Sotheby's in 2001. Since that time, I have sold in excess of \$4 billion dollars in property. I am currently ranked the highest producing Sotheby's broker. The Wall Street Journal has ranked me as the number one broker in the United States by sales volume.

7. In 2014, I set the sales record for a New York City cooperative apartment by selling the Penthouse at 960 Fifth Avenue for \$70 million. Two months later, I surpassed this new record by representing both the buyer and the seller of a high floor apartment at 740 Park

Avenue, which closed for \$71.3 million. Since then, I set a new record by selling an apartment at 834 Fifth Avenue for \$77.5 million in a transaction where I represented both the buyer and the seller.

8. Moreover, I was the broker who actually sold the Residence to the Debtor in 2015, representing the prior owner. Accordingly, I already have direct, firsthand knowledge and familiarity with the Residence, as well as experience selling other apartments at the Sherry-Netherland, and believe I am uniquely qualified to represent the Debtor's estate in connection with the proposed sale.

### **Disinterestedness**

9. Sotheby's is not a creditor of the Debtor and does not otherwise hold or represent any interest adverse to the Debtor's estate. As noted above, Sotheby's previously represented the prior owner of the Residence and brokered the sale of the Residence to the Debtor. However, neither I nor Sotheby's represented the Debtor in the sale and only acted on behalf of the seller. We have never represented the Debtor since, nor any of its creditors.

10. In the interest of complete transparency, Sotheby's discloses that Miles Kwok attended a showing of a property on January 28, 2019, which was handled by other independent brokers at Sotheby's, not me. No sale or other transaction materialized from Mr. Kwok's attendance at that showing. Brokers unrelated to me represented the Kwok family prior to joining Sotheby's. Those representations are closed, and neither Sotheby's, nor I, were involved. I note these tangential interactions in an effort to provide full transparency.

11. In connection with preparing for this engagement, I also reviewed the names identified on the list of creditors and equity holders attached hereto as Exhibit "B" for any potential conflicts. Based upon that review, to the best of my knowledge, after due inquiry Sotheby's does not

maintain a current relationship with any of the Debtor's creditors or equity holders. Sotheby's, its locations, brokers, agents, contractors, and representatives work with vendors, service providers, and professionals throughout the world. Sotheby's cannot feasibly maintain a central database of every connection Sotheby's may have with third parties; however, should Sotheby's become aware of any conflict, connection, or financial relationship not already disclosed herein, Sotheby's will make a supplemental disclosure.

12. In view of the foregoing, Sotheby's is disinterested and has no disabling conflicts which would impede its engagement as the broker for the sale of the Residence.

Dated: New York, NY

December \_\_, 2021

Dec 13, 2021 | 5:18:24 PM EST

DocuSigned by:

*Serena Boardman*

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Serena Boardman